

UNITED STATES TAX COURT
WASHINGTON, DC 20217

RYAN CHARLES MINNIG,)	
)	
Petitioner(s),)	
)	
v.)	Docket No. 22864-18.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

Pursuant to Rule 152(b), Tax Court Rules of Practice and Procedure, it is

ORDERED that the Clerk of the Court shall transmit herewith to petitioner and to respondent a copy of the pages of the transcript of the trial in the above case before Judge Kathleen Kerrigan at Denver, Colorado, containing her oral Findings of Fact and Opinion rendered at the trial session at which the case was heard.

In accordance with the oral Findings of Fact and Opinion, decision shall be entered for respondent.

(Signed) Kathleen Kerrigan
Judge

Dated: Washington, D.C.
March 30, 2020

SERVED Mar 30 2020

1 Bench Opinion by Judge Kathleen Kerrigan
2 March 9, 2020
3 Ryan Charles Minnig v. Commissioner
4 Docket No. 22864-18

5 THE COURT: The Court has decided to render in
6 this case the following as its oral Findings of Fact and
7 Opinion, which shall not be relied upon as precedent in
8 any other case. This Bench Opinion is made pursuant to
9 the authority granted by section 7459(b) of the Internal
10 Revenue Code and Rule 152 of the Tax Court Rules of
11 Practice and Procedure. Unless otherwise indicated, all
12 section references are to the Internal Revenue Code in
13 effect for the tax year in issue, and all Rule references
14 are to the Tax Court Rules of Practice and Procedure. All
15 monetary amounts are rounded to the nearest dollar.

16 By notice of deficiency dated August 22, 2018,
17 respondent determined a deficiency of \$17,493 for 2014,
18 additions to tax pursuant to section 6651(a)(1) for \$1,574
19 and section 6651(a)(2) for \$3,586, and a penalty pursuant
20 to section 6662(a) for \$3,499. Respondent has conceded
21 the section 6651(a)(2) addition to tax and the section
22 6662(a) penalty.

23 Trial in this case was conducted in Denver,
24 Colorado, on March 9, 2020. Petitioner represented
25 himself. Respondent was represented by Jeri L. Acromite.

1 A stipulation of facts was admitted into evidence along
2 with the attached exhibits. We find the following facts:

3 Findings

4 Petitioner resided in Colorado when he timely
5 filed his petition. During 2014 petitioner was an
6 employee of Lat-Lon, LLC. Lat-Lon, LLC issued petitioner
7 a Form W-2, Wage and Tax Statement, reporting wages of
8 \$102,313 for 2014.

9 Petitioner submitted a Form 1040, U.S.
10 Individual Income Tax Return, that he signed and dated
11 November 24, 2015. His return reported zero income.

12 Petitioner filed a motion to dismiss for lack of
13 jurisdiction, and this Court has denied the motion.

14 OPINION

15 Generally, the Commissioner's determinations in
16 a notice of deficiency are presumed correct, and the
17 taxpayer bears the burden of proving those determinations
18 erroneous. Rule 142(a)(1); Welch v. Helvering, 290 U.S.
19 111, 115 (1933). In unreported income cases such as this,
20 the Commissioner must establish some evidentiary
21 foundation connecting the taxpayer with the income-
22 producing activity or demonstrating that the taxpayer
23 actually received unreported income. See United States v.
24 McMullin, 948 F.2d 1188, 1192 (10th Cir. 1991);
25 Weimerskirch v. Commissioner, 596 F.2d 358, 361-362 (9th

1 Cir. 1979), rev'g 67 T.C. 672 (1977). The requisite
2 evidentiary foundation is minimal and need not include
3 direct evidence. See Banister v. Commissioner, T.C. Memo.
4 2008-201, aff'd, 418 F. App'x 637 (9th Cir. 2011).

5 If the Commissioner introduces some evidence
6 that the taxpayer received unreported income, the burden
7 shifts to the taxpayer, who must establish by a
8 preponderance of the evidence that the deficiency was
9 arbitrary or erroneous. See Hardy v. Commissioner, 181
10 F.3d 1002, 1004 (9th Cir. 1999), aff'g T.C. Memo. 1997-97.
11 Respondent met the burden of production as to the
12 unreported income determined in the notice of deficiency.
13 Respondent produced a Form W-2.

14 Gross income generally includes all income from
15 whatever source derived, including wages. Sec. 61(a);
16 Commissioner v. Glenshaw Glass Co., 348 U.S. 426, 429-430
17 (1955); sec. 1.61-2(a)(1), Income Tax Regs. The United
18 States Supreme Court has held consistently that Congress
19 defined gross income to exert the "'the full measure of
20 its taxing power.'" Commissioner v. Glenshaw Glass Co.,
21 348 U.S. at 429 (quoting Helvering v. Clifford, 309 U.S.
22 331, 334 (1940)).

23 We do not need to discuss petitioner's frivolous
24 and groundless arguments. See Heisey v. Commissioner,
25 T.C. Memo. 2002-41, slip op. at 4, aff'd, 59 F. App'x 233

1 (9th Cir. 2003). We shall not painstakingly address
2 petitioner's assertions "with somber reasoning and copious
3 citation of precedent; to do so might suggest that these
4 arguments have some colorable merit." Crain v.
5 Commissioner, 737 F.2d 1417, 1417 (5th Cir. 1984).
6 Accordingly, we sustain the deficiency determined by
7 respondent.

8 The Commissioner bears the burden of production
9 with respect to a taxpayer's liability for additions to
10 tax, requiring the Commissioner to come forward with
11 sufficient evidence indicating that the imposition of
12 additions to tax is appropriate. See sec. 7491(c); Higbee
13 v. Commissioner, 116 T.C. 438, 446 (2001). Once the
14 Commissioner satisfies the burden of production, the
15 taxpayer must come forward with persuasive evidence that
16 the Commissioner's determination of additions to tax is
17 incorrect or that the taxpayer has an affirmative defense
18 such as reasonable cause. See Rule 142(a); Higbee v.
19 Commissioner, 116 T.C. at 446-447.

20 Section 6651(a)(1) authorizes the imposition of
21 an addition to tax for failure to timely file a return.
22 Petitioner filed his return after April 15, 2015.
23 Petitioner did not show reasonable cause and is liable for
24 the addition to tax pursuant to section 6651(a)(1).
25 Petitioner's frivolous arguments do not establish

1 reasonable cause. See McGowan v. Commissioner, T.C. Memo.
2 2006-154, slip op. at 5.

3 A decision will be entered for respondent. This
4 concludes the Court's oral Findings of Fact and Opinion in
5 this case.

6 (Whereupon, at 4:30 p.m., the above-entitled
7 matter was concluded.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25